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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,979	04/02/2004	Peter-Franz Arnold	41653-200624	7720

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EXAMINER

HARMON, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/815,979	Applicant(s) ARNOLD ET AL.	
	Examiner Christopher R. Harmon	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-12,14-17,19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,3-5,7-12,14-17,19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 7, 11-12, 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Teed (US 3,857,657).

Teed discloses a method for producing a nonwoven comprising introducing fibers to separating devices 20 and 50 above conveyor 30 positioned parallel to the rotation axis of separating elements 22. Note: air tunnel 50 acts as a second separating device for separating fibers and distributing over the surface of conveyor 30. Note: the claims are read in a broad context, therefore the fibers, even though compressed into a pressed pulp sheet S, are considered of a finite length; claim 12 is construed to mean at least one separating device comprises the rotating element and is positioned as claimed not each of a plurality. Regarding claim 15, chutes are defined by the chamber wall and conduit end 52; see figures 1 and 3.

3. Claims 1, 7, 11-12, 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Radwanski et al. (US 4,701,294).

Radwanski et al. disclose a method of producing a nonwoven comprising feeding fibers 16 to a longitudinal axis of separating device/rotatable drum 14 with rotating elements and separating device/gas delivering means 34 positioned above conveyor 32

which is positioned parallel to the rotational axis of separating device 14; see figure 1. Downstream chutes are formed from the housing 10 (upper and lower) as well as positionable devices 38 and 40 that converge into chamber 50 upstream conveyor 32.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-5, 8-10, 17, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arthur et al. (GB 2145918) in view of Teed (US 3,857,657) or Radwanski et al. (US 4,701,294).

Arthur et al. disclose producing a nonwoven web comprising separating (multi and bi-component) fibers in separating device with rotating separation element 16, 80, 144, 146 and feeding material to conveyor 88 (also embodiment with two devices to conveyor 152 with different designs) see figures 6-7 and 9.

Regarding claim 10, Arthur et al. disclose adding granulate to the tow by unit 142; see figure 1. Regarding claim 15, each separating device has conveying chute downstream; see figure 9. Regarding claim 17, conveying chute (not labeled) is positioned above rotational elements 144 and 146.

Arthur et al. do not directly disclose the rotational axis of the separating device being parallel to the conveying direction, however both Teed and Radwanski et al.

disclose a method of separating fibers with separating devices including separating elements with rotational axis in a parallel relationship with that of a conveying direction of a conveyor below, as discussed supra.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to position a separating device as taught by Teed or Radwanski as an alternate configuration for separating and accelerating the fibers. Note that Arthur also contemplates the use of other conveyors in various alternates; see page 1, lines 60-65.

Regarding claim 16, Arthur discloses the conveying chute 134 converging with air chute 136 forming a chamber with top 132; see figure 5. It would have been obvious to one of ordinary skill in the art to combine the multiple embodiments of Arthur to include multiple separating elements (as depicted in figure 9) with chutes converging into a chamber as illustrated in figure 5.

Response to Arguments

6. Applicant's arguments are not persuasive. During patent examination of the claims, the pending claims must be given their broadest reasonable interpretation consistent with the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005). See also MPEP § 2111. Moreover, while the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re Am. Acad. of Sci.*

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Tech Ctr., 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004). See also MPEP § 2111.01.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., introducing the fibers in a parallel direction of the longitudinal axis of at least one separating device) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claims which call for introducing fibers "in the direction of a longitudinal axis" (ie. claim 1, 5, etc.) of a separating device does not necessarily limit the direction to a parallel direction as an intersecting direction is also considered "in the direction of a longitudinal axis." Thus the introducing directions of the applied references are considered to read on the various relevant claims.

With regard to Arthur, note also that it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70 and that "section 103 cannot easily be satisfied by inventions that rearrange old elements in new combinations with each element performing the same function it performed in the prior art, even though the new combination produces a more striking result than the old ones. *Sakraida v. Ag Pro, Inc.*, 425 U.S. 273 (1976).

Regarding the "continuous filaments" argument, fibers separated by the invention to Arthur are not infinite and therefore have a finite length. Furthermore, the feedstock is considered comprised of multiple "fibers of a finite length" however

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joined/woven/compressed together. Arthur clearly describes multiple separating devices 144, 146, 116, etc.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

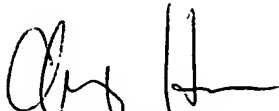
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 9-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Chris Harmon
Patent Examiner